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California Corporations Commissioner
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Acting Deputy Commissioner
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BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of THE
CALIFORNIA CORPORATIONS
COMMISSIONER,

Complainant,

v.

FIRST MAGNUS FINANCIAL
CORPORATION doing business as CHARTER
FUNDING,

Respondent.

File No.: 413-0257

**ACCUSATION IN SUPPORT OF
REVOCATION OF CALIFORNIA
RESIDENTIAL MORTGAGE LENDING
LICENSE**

The Complainant, California Corporations Commissioner ("Commissioner"), is informed and believes, and based upon such information and belief, alleges and charges Respondent as follows:

I.

Respondent, First Magnus Financial Corporation doing business as Charter Funding ("Respondent") is a residential mortgage lender licensed by the California Department of Corporations ("Department") pursuant to the California Residential Mortgage Lending Act ("CRMLA") (California Financial Code sections 50000 *et seq.*). Respondent has its principal place of business located at 603 North Wilmot Road, Tucson, AZ, 85711.

II.

On or about December 17, 2007, the Commissioner notified Respondent in writing that, pursuant to Financial Code section 50200, it was required to submit an annual audit report for its fiscal year ending on December 31, 2007 ("Audit Report") no later than April 15, 2008. The letter advised Respondent that the Audit Report was required to include a reconciliation of all trust accounts as of the audit date. Respondent was notified in the letter that its failure to file the required reports may result in license revocation and/or an assessment of fines pursuant to Financial Code section 50326, an immediate examination by the Commissioner pursuant to Financial Code section 50307, and/or revocation of the license.

On or about December 28, 2007, Respondent's general counsel, Matthew A. Thrasher ("Thrasher"), notified the Commissioner that Respondent petitioned for bankruptcy for relief under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. section 101, *et seq.* in the United States Bankruptcy Court for the District of Arizona. According to Thrasher's letter, Respondent was no longer funding loans or otherwise conducting business operations in the State of California; as a result Respondent would not be in a position to prepare the Audit Report.

On or about June 4, 2008, the Commissioner again notified Respondent in writing that it had failed to file its Audit Report and it was required to file the Audit Report within ten (10) days of the date of the letter. Respondent has yet to file its Audit Report required by Financial Code section 50200.

III.

Pursuant to Financial Code section 50307 and California Code of Regulations, title 10, section 1950.314.8, all licensees under the CRMLA are required to file an annual Report of Principal Amount of Loans and Aggregate Amount of Loans Serviced ("Activity Report") on or before March 1st of each year for the preceding 12-month period ended December 31.

On or about February 1, 2008, an Activity Report form was sent to all CRMLA licensees with a notice that its Activity Report was due on or before March 1, 2008. Respondent has yet to submit the Activity Report to the Commissioner. Due to the fact that Respondent filed bankruptcy, the Commissioner did not assess a penalty for non-filing of the Activity Report pursuant to Financial

1 Code section 50326.

2 **IV.**

3 Financial Code section 50205 requires each CRMLA licensee to maintain a surety bond to be
4 used for the recovery of expenses, fines, or fees levied by the Commissioner for losses or damages
5 incurred by borrowers or consumers as a result of a licensee's noncompliance with the requirements
6 of the CRMLA.

7 On or about March 24, 2008, the Commissioner received a Notice of Cancellation from Platte
8 River Insurance Company advising the Commissioner that Respondent's surety bond would be
9 cancelled effective April 23, 2008.

10 On or about April 23, 2008, the Commissioner issued an Order to Discontinue Residential
11 Mortgage Lending and/or Servicing Activities pursuant to Financial Code section 50319. Respondent
12 did not request a hearing pursuant to the provisions of the section 50319 and thus the order remains in
13 effect.

14 **V.**

15 Financial Code section 50327 provides in pertinent part:

16 (a) The commissioner may, after notice and a reasonable opportunity to be
17 heard, suspend or revoke any license if the commissioner finds that: (1) the
18 licensee has violated any provision of this division or any rule or order of the
19 commissioner thereunder; or (2) any fact or condition exists that, if it had
20 existed at the time of the original application for license, reasonably would
21 have warranted the commissioner in refusing to issue the license originally.

22 **VI.**

23 Financial Code section 50311 states:

24 Nothing in this law shall preclude a person whose license has been
25 suspended or revoked, summarily or otherwise, from making a
26 residential mortgage loan pursuant to a commitment issued by that
27 person prior to the suspension or revocation. A prospective borrower
28 who received a commitment issued by a person whose license has
been suspended or revoked may, prior to the closing of the loan,
terminate the commitment or receive a refund of all money paid to
that person.

VII.

The Commissioner finds that, by reason of the foregoing, First Magnus Financial Corporation doing business as Charter Funding has violated California Financial Code sections 50200, 50205, 50307, 50401 and California Code of Regulations, title 10, section 1950.314.8, and based thereon grounds exist to revoke the residential mortgage lender license of First Magnus Financial Corporation doing business as Charter Funding.

WHEREFORE, IT IS PRAYED that the residential mortgage lender license of First Magnus Financial Corporation doing business as Charter Funding be revoked and, pursuant to Financial Code section 50311, First Magnus Financial Corporation doing business as Charter Funding be given a transition period of sixty (60) days within which to complete any loans for which it had prior commitments.

DATED: September 3, 2008
San Diego, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Afsaneh Eghbaldari
Corporations Counsel